

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

Your Committee on Judiciary, to which was referred Senate Bill 534, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 3, between lines 21 and 22, begin a new paragraph and insert:
- 2 "SECTION 5. IC 31-19-4-3 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If:
- 4 (1) the mother of a child:
- 5 (A) informs an attorney or agency arranging the child's
- 6 adoption, on or before the date the child's mother executes a
- 7 consent to the child's adoption, that the child was conceived
- 8 outside Indiana; and
- 9 (B) does not disclose to the attorney or agency the name or
- 10 address, or both, of the putative father of the child; and
- 11 (2) the putative father of the child has:
- 12 (A) failed or refused to consent to the adoption of the child or
- 13 has not had the parent-child relationship terminated under
- 14 IC 31-35 (or IC 31-6-5 before its repeal); and
- 15 (B) not registered with the putative father registry under
- 16 IC 31-19-5 within the period under IC 31-19-5-12;

the attorney or agency shall serve notice of the adoption proceedings on the putative father by publication **in the same manner as a summons is served by publication** under Rule 4.13 of the Indiana Rules of Trial Procedure.

(b) The only circumstance under which notice to the putative father must be given by publication under Rule 4.13 of the Indiana Rules of Trial Procedure is when the child was conceived outside of Indiana as described in subsection (a).

SECTION 6. IC 31-19-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. If a putative father is entitled to notice under section 1, 2, or 3 of this chapter, upon:

(1) providing service of process in ~~compliance with the same manner as a summons and complaint are served under~~ Rule 4.1 of the Indiana Rules of Trial Procedure for notice under section 1 or 2 of this chapter; or

(2) publication in ~~compliance with the same manner as a summons is served by publication under~~ Rule 4.13 of the Indiana Rules of Trial Procedure for notice under section 3 of this chapter;

no further efforts to give notice to the putative father are necessary, regardless of whether the putative father actually receives the notice.

SECTION 7. IC 31-19-4.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter:

(1) shall not be construed to affect notice of an adoption provided to a putative father under IC 31-19-4; and

(2) applies to a ~~putative~~ father who has abandoned, failed to support, or failed to communicate with a child.

SECTION 8. IC 31-19-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as provided in IC 31-19-2.5-4, if a petition for adoption alleges that consent to adoption is not required under IC 31-19-9-8, notice of the adoption must be given to the person from whom consent is allegedly not required under IC 31-19-9-8. Notice shall be given: ~~under:~~

(1) **in the same manner as a summons and complaint are served under** Rule 4.1 of the Indiana Rules of Trial Procedure if the person's name and address are known; ~~and or~~

(2) **in the same manner as a summons is served by publication under** Rule 4.13 of the Indiana Rules of Trial Procedure if the

1 name or address of the person is not known;
 2 to a petitioner for adoption."

3 Page 8, line 8, after "Sec. 1.5." insert "(a) If a prospective adoptive
 4 parent suffers pecuniary loss as a result of a violation of
 5 IC 35-46-1-9.5, the prospective adoptive parent may bring a civil
 6 action against a person who benefits from adoption related
 7 expenses in violation of IC 35-46-1-9.5, even if the person has not
 8 been prosecuted or convicted of the offense under IC 35-46-1-9.5.
 9 In an action under this subsection, a prospective adoptive parent
 10 may seek an award of the following:

11 (1) Actual damages caused by the violation if the prospective
 12 adoptive parent has not been awarded damages under
 13 IC 35-46-1-9.5.

14 (2) An amount not to exceed three (3) times the amount of
 15 actual damages of the prospective adoptive parent suffering
 16 the loss.

17 (3) The costs of the action.

18 (4) A reasonable attorney's fee.

19 (b)".

20 Page 8, line 12, delete "section," and insert "subsection,".

21 Page 8, between lines 27 and 28, begin a new paragraph and insert:
 22 "SECTION 18. IC 35-46-1-9, AS AMENDED BY P.L.145-2006,
 23 SECTION 371, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Except as provided in
 25 subsection (b), a person who, with respect to an adoption, transfers or
 26 receives any property in connection with the waiver of parental rights,
 27 the termination of parental rights, the consent to adoption, or the
 28 petition for adoption commits profiting from an adoption, a Class D
 29 felony.

30 (b) This section does not apply to the transfer or receipt of:

31 (1) reasonable attorney's fees;

32 (2) hospital and medical expenses concerning childbirth and
 33 pregnancy incurred by the adopted person's birth mother;

34 (3) reasonable charges and fees levied by a child placing agency
 35 licensed under IC 31-27 or by a county office or the department
 36 of child services;

37 (4) reasonable expenses for psychological counseling relating to
 38 adoption incurred by the adopted person's birth parents;

(5) reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth;

(6) reasonable costs of maternity clothing for the adopted person's birth mother;

(7) reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption;

(8) any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth, not listed in subdivisions (5) through (7) in an amount not to exceed one thousand dollars (\$1,000); or

(9) other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:

(A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and

(B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician.

In determining the amount of reimbursable lost wages, if any, that are reasonably payable to the adopted person's birth mother under subdivision (9), the court shall offset against the reimbursable lost wages any amounts paid to the adopted person's birth mother under subdivisions (5) and (8) and any unemployment compensation received by or owed to the adopted person's birth mother.

(c) Except as provided in this subsection, payments made under subsection (b)(5) through (b)(9) may not exceed three thousand dollars (\$3,000) and must be disclosed to the court supervising the adoption. The amounts paid under subsection (b)(5) through (b)(9) may exceed three thousand dollars (\$3,000) to the extent that a court in Indiana with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:

(1) the expenses are not being offered as an inducement to proceed with an adoption; and

(2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the child and the direct relationship is documented by a licensed social worker or the attending physician.

(d) The payment limitation under subsection (c) applies to the total amount paid under subsection (b)(5) through (b)(9) in connection with an adoption from all prospective adoptive parents, attorneys, and licensed child placing agencies.

~~(d)~~ (e) An attorney or licensed child placing agency shall inform a birth mother of the penalties for committing adoption deception under section 9.5 of this chapter before the attorney or agency transfers a payment for adoption related expenses under subsection (b) in relation to the birth mother.

~~(e)~~ (f) The limitations in this section apply regardless of the state or country in which the adoption is finalized.

SECTION 19. IC 35-46-1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.5. A person who is a birth mother, or a woman who holds herself out to be a birth mother, and who knowingly or intentionally benefits from adoption related expenses paid:

(1) when the person knows or should have known that the person is not pregnant;

(2) by or on behalf of a prospective adoptive parent who is unaware that at the same time another prospective adoptive parent is also **incurring paying** adoption related expenses described under section 9(b) of this chapter in an effort to adopt the same child; or

(3) when the person does not intend to make an adoptive placement;

commits adoption deception, a Class A misdemeanor. In addition to any other penalty imposed under this section, a court may order the person who commits adoption deception to make restitution to a

1 prospective adoptive parent, attorney, or licensed child placing agency
2 that incurs an expense as a result of the offense."

3 Renumber all SECTIONS consecutively.
(Reference is to SB 534 as printed February 20, 2007.)

and when so amended that said bill do pass.

Representative Lawson L